

Four on short list for post in highest court

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The Judicial Service Commission (JSC) has announced its short list of candidates to be interviewed for appointments as judges, with four candidates vying for one appointment to the Constitutional Court.



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Candidates for the highest court are Supreme Court of Appeal justices Ronnie Bosielo, Stevan Majiedt and Malcolm Wallis and Gauteng High Court Judge Jody Kollapen.

The short list may mollify, but is unlikely to completely allay, concerns about an apparent lack of interest in appointment to the highest court, with few candidates coming forward in previous nomination rounds. In March the JSC had to re-advertise to fill the Constitutional Court post after failing to get enough nominations - part of a pattern that has developed where posts are either re-advertised or where there are just enough candidates to fulfil the requirements under the Constitution, which requires that there be three more candidates than the number of appointments to be made.

This time around the JSC has enough candidates, but only just.

The commission also decided to fill only one vacancy, despite there being two vacancies in the Constitutional Court.

The short list may raise eyebrows for being all-male.

After a lot of criticism, the last appointment made to the Constitutional Court - Justice Nonkosi Mhlantla - was made from an all-female short list after a good deal of hard work by Chief Justice Mogoeng Mogoeng in inviting women judges to act at the highest court.

Current candidates

Bosielo has been interviewed for appointment to the Constitutional Court a few times before and in 2013 was one of the four recommended to the president, but he lost out to Justice Mbuyiseni Madlanga. He is the most senior of the candidates, having been appointed to the Supreme Court of Appeal in 2009.

Majiedt, appointed to the Supreme Court of Appeal in 2010, is most famous for being one of the panel of appeal court justices that found Oscar Pistorius guilty of murder, overturning the high court's culpable homicide verdict.

While acting on the Constitutional Court, he penned the groundbreaking judgment that found that the South African police had a duty under international law to investigate allegations of torture by Zimbabwean police and emphatically rejected the argument that a good reason to refuse to investigate was the potential harm to SA-Zimbabwe political relations.

Wallis was appointed to the Supreme Court of Appeal in 2011, after two years on the High Court in Durban bench. At the Supreme Court of Appeal, he penned the judgment that confirmed that the government had acted unlawfully when it failed to detain Sudanese president Omar al-Bashir - wanted by the International Criminal Court for crimes against humanity - when he visited SA last year.

When he was acting on the Constitutional Court, Wallis wrote the unanimous judgment on the Tlokwe by-election, saying that the Electoral Commission had failed to live up to the high standards the Constitution imposed.

Kollapen was appointed to the high court in 2011 after heading up the South African Human Rights Commission. Of the candidates, only Kollapen has not acted on the bench of the highest court.

Having acted is not a requirement, but it is widely viewed as an advantage. Kollapen is known for taking a human-rights bent in judgments, even when they are not directly implicated.

The JSC also announced candidates for a vacancy on the Competition Appeal Court, two vacancies on the Electoral Court as well as vacancies in the Eastern Cape, Free State, Gauteng, KwaZulu-Natal and Limpopo divisions of the high court.

Source: **Business Day** via I-Net Bridge